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PERKINS COIE LLP (BOEING) P.O. BOX 1247 PATENT - SEA SEATTLE, WA 98111-1247				MANCHO, RONNIE M
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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte MICHAEL B. McAVOY

Appeal 2009-003397
Application 10/731,695
Technology Center 3600

Before WILLIAM F. PATE, III, JENNIFER D. BAHR and
JOHN C. KERINS, *Administrative Patent Judges*.

KERINS, *Administrative Patent Judge*.

DECISION ON APPEAL¹

¹ The two-month time period for filing an appeal or commencing a civil action, as recited in 37 C.F.R. § 1.304, or for filing a request for rehearing, as recited in 37 C.F.R. § 41.52, begins to run from the “MAIL DATE” (paper delivery mode) or the “NOTIFICATION DATE” (electronic delivery mode) shown on the PTOL-90A cover letter attached to this decision.

STATEMENT OF THE CASE

Michael B. McAvoy (Appellant) seeks our review under 35 U.S.C. § 134 of the Examiner's final rejection of claims 1-7, 11, 12 and 71-77. Claims 14-70 were canceled and claims 8-10 and 13 have been withdrawn from consideration. We have jurisdiction under 35 U.S.C. § 6(b) (2002).

We REVERSE.

THE INVENTION

Appellant's invention is directed to a method for distributing power to a plurality of electrical devices in a vehicle. Claim 1, reproduced below, is illustrative of Appellant's invention:

1. A method for distributing electric power to a plurality of electrical devices in a vehicle, the method comprising:
 - receiving at least a first operating command for at least one of the plurality of electrical devices;
 - in response to receiving the operating command, polling the plurality of electrical devices for power requests;*
 - receiving at least one power request from the plurality of electrical devices in response to the poll; and
 - distributing power to the electrical devices based on the at least one power request received from the plurality of electrical devices.

(Appeal Br., Claims Appendix)(emphasis added).

THE REJECTION²

The Examiner has rejected claims 1-7, 11, 12 and 71-77 under 35 U.S.C. § 102(b) as being anticipated by Weiler (US 5,936,318, issued August 10, 1999).

ISSUE

Has the Examiner established that Weiler discloses a method in which, in response to receiving an operating command, a plurality of electrical devices are polled for power requests?

ANALYSIS

The Examiner has not specifically pointed out where, in the Weiler disclosure, a step of polling a plurality of electrical devices is *performed in response to receiving an operating command*, as set forth in independent claims 1 and 71. Instead, the Examiner explains that devices 27, 40 and 43 of Weiler “are continually polling all the [electrical] devices 14-18 for power request[s]”, and points out that, while Appellant “*appears to be arguing selectively polling electrical devices*”, the claims “*do not preclude continuously polling electrical devices.*” (Ans. 9).

Whether independent claims 1 and 71 might or might not preclude continuous polling, the claim language, on its face, specifically requires that there is to be a step performed of polling the electrical devices *in response to receiving an operating signal*. There must, therefore, be a particular polling

² Rejections of claims 71-77 under 35 U.S.C. § 112, first paragraph (enablement) and of claims 2-7 under 35 U.S.C. § 112, second paragraph (indefiniteness) made in the Final Rejection dated January 30, 2007, were withdrawn in the Examiner’s Answer. (Ans. 9).

Appeal 2009-003397
Application 10/731,695

operation associated with the receipt of and in response to an operating command. A disclosure of continuously monitoring loads occasioned by supplying power to electrical devices, even if regarded in a broad sense as a “polling” of the electrical devices, does not amount to a disclosure of the claim step requiring a polling in response to the receipt of an operating signal.

The rejection of independent claims 1 and 71, and of claims 2-7, 11, 12 and 72-77 depending therefrom, will not be sustained.

CONCLUSIONS

The Examiner has not established, by a preponderance of the evidence, that Weiler discloses a method in which, in response to receiving an operating command, a plurality of electrical devices are polled for power requests.

DECISION

The decision of the Examiner to reject claims 1-7, 11, 12 and 71-77 is reversed.

REVERSED

mls

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